

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSE LUIS QUEZADA-LEMUS,

Defendant.

No. 06-CR-4076-DEO

**ORDER REGARDING REPORT AND
RECOMMENDATION CONCERNING
GUILTY PLEA**

I. INTRODUCTION AND BACKGROUND

On July 27, 2006, a one Count Indictment (Docket No. 2, 07/27/2006) was returned against defendant Jose Luis Quezada-Lemus.

Count 1 of that Indictment charges that the defendant, Jose Luis Quezada-Lemus, on or about July 21, 2006, in the Northern District of Iowa, was found to be an alien who had been previously removed and deported on August 7, 2002, and who was found, knowingly and unlawfully, in the United States, in Woodbury County, Iowa, after re-entering the United States without first obtaining the consent to apply for readmission into the United States from either the United States Attorney General or Secretary for Homeland Security, all in violation of Title 8, United States Code, Section 1326(a).

Notice was further provided in the Indictment that defendant Jose Luis Quezada-Lemus was convicted on June 26, 2002, in the Iowa District Court for Woodbury County of tampering with records and sentenced to 2 years in prison. Pursuant to Title 8, United States Code, Section 1326(b), this prior conviction increases the maximum statutory sentence that can be imposed upon a conviction for this charge.

On November 28, 2006, defendant Jose Luis Quezada-Lemus appeared before United States Magistrate Judge Paul A. Zoss and entered a plea of guilty to Count 1 of the Indictment. On the same date, United States Magistrate Judge Zoss filed a Report and Recommendation (Docket No. 23, 11/28/2006) in which he recommends that defendant Jose Luis Quezada-Lemus' guilty plea be accepted. No objections to Judge Zoss's Report and Recommendation were filed. The Court, therefore, undertakes the necessary review of Judge Zoss's recommendation to accept defendant Jose Luis Quezada-Lemus' plea in this case.

II. ANALYSIS

A. Standard of Review

Pursuant to statute, this Court's standard of review for a magistrate judge's Report and Recommendation is as follows:

A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate [judge].

28 U.S.C. § 636(b)(1). Similarly, Federal Rule of Civil Procedure 72(b) provides for review of a magistrate judge's Report and Recommendation on dispositive motions and prisoner petitions, where objections are made as follows:

The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommendation decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

FED. R. CIV. P. 72(b).

In this case, no objections have been filed, and it appears to the Court upon review of Judge Zoss's findings and conclusions that there are no grounds to reject or modify them. Therefore, the Court accepts Judge Zoss's Report and Recommendation (Docket No. 23), and accepts defendant's plea

of guilty in this case to Count 1 of the Indictment filed on
February July 27, 2006.

IT IS SO ORDERED this 20th day of December, 2006.

Donald E. O'Brien

Donald E. O'Brien, Senior Judge
United States District Court
Northern District of Iowa